

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

STEVEN M. JOHNSON,
Petitioner,

v.

WILLIAM DRAKE,
Respondent.

§
§
§
§
§
§
§
§
§
§
§

C.A. NO. 3:16-cv-01933-BF

DEFENDANT'S MOTION TO DISMISS AND ALTERNATIVELY TO TRANSFER
VENUE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COME NOW, Respondent, and files this, his motion to dismiss for lack of personal jurisdiction, res judicata, Rule 41, improper venue, and improper service; And, in the alternative, motion to transfer venue.

The facts and law supporting Respondent's contentions are including in a brief pursuant to Local Rule 7.1(d) filed contemporaneously herewith. In addition, and appendix containing the documents supporting Respondent's motion pursuant to Local Rule 7.1(i) is filed contemporaneously herewith.

MOTION TO DISMISS

Respondent files this motion to dismiss for lack of personal jurisdiction in that Respondent does not have minimum contacts with this forum;

Respondent files his motion for res judicata because the United States District Court, Northern District of Texas has already found it does not have personal jurisdiction over Respondent;

Respondent files his motion for Rule 41 dismissal under the “double dismissal” rule and Petitioner has already commenced and voluntarily dismissed two lawsuits against Respondent;

Respondent files his motion for improper venue as in that he does not reside in the district and substantial parts of the alleged claim occurred in another district; and

Respondent files his motion for improper service as Respondent was never properly served.

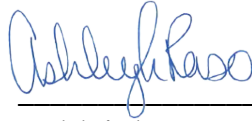
MOTION TO TRANSFER

In the alternative to the Court dismissing the action on any or all grounds above, Respondent moves the Court to transfer the case to the Northern District of Ohio, where a proper motion site and which is currently the Court designated for the Multi-District Litigation.

PRAYER

For these reasons, Respondent respectfully request the Court grant Respondent’s motion and dismiss Plaintiff’s claims for the above reasons and grant Respondent all other relief to which they are justly entitled.

Respectfully Submitted:



Ashleigh E. Raso

Minnesota State Bar No. 0393353

E-mail: araso@meshbeshher.com

Tel. 612.767.5123

Tony Nemo

Minnesota State Bar No. 221351

Email: tnemo@meshbeshher.com

Tel. 612-339-9121

Meshbeshher & Spence

1616 Park Avenue

Minneapolis, Minnesota 55404

Karin Cagle

Texas State Bar No. 24043588

Kirkley & Berryman, L.L.P

100 N. Forest Park Blvd., Suite 220

Fort Worth, Texas 76102


E-mail: kcagle@kbblawyers.com

Tel. 817.335.3311

LAWYERS FOR DEFENDANT

CERTIFICATE OF SERVICE

I served this document on the Plaintiff's counsel of record, per the Federal Rules of Civil Procedure, as indicated below, on August 18, 2016.

A handwritten signature in blue ink, reading "Ashleigh Raso", is positioned above a solid horizontal line.

Ashleigh E. Raso

Via certified mail:

Jenny Andrews

Wallach & Andrews, P.C.

2501 Parkview Drive, Suite 303

Fort Worth, TX 76102